



# Board Report

**Date of Report:** July 24, 2024  
**Date & Type of Meeting:** August 15, 2024  
**Author:** Zachari Giacomazzo, Planner  
**Subject:** LAND USE BYLAW AMENDMENT  
**File:** Z2308G – Filippo  
**Electoral Area/Municipality** G

## SECTION 1: EXECUTIVE SUMMARY

The purpose of this report is for the Board to consider adoption of Amendment Bylaw No. 2935, 2023 being a bylaw to amend Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018. The subject property is located at 4650 Highway 6 in Electoral Area ‘G’.

The purpose of the amendment is to rezone and re-designate a portion of the subject property that is currently designated Parks and Recreation as Country Residential in order to authorize the construction of a single detached dwelling.

Third reading of the bylaw was completed at the June 13<sup>th</sup> Board Meeting (Resolution 334/24) and the Ministry of Transportation and Infrastructure has approved the bylaw. Staff recommend that Amendment Bylaw No. 2935, 2023 being a bylaw to amend Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018 be adopted.

## SECTION 2: BACKGROUND/ANALYSIS

### GENERAL INFORMATION

**Property Owner:** Anne Filippo and Jerry Filippo

**Property Location:** 4650 Highway 6, Hall Siding, Electoral Area ‘G’

**Legal Description:** LOT A DISTRICT LOT 1241 KOOTENAY DISTRICT PLAN 17958  
(PID 011-707-721)

**Property Size:** 14.4 hectares (35.6 acres)

**Current Zoning:** Parks and Recreation (PR) in Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018

**Current Official Community Plan Designation:** Parks and Recreation (PR) in Electoral Area ‘G’ Land Use Bylaw No. 2452, 2018

### SURROUNDING LAND USES

**North:** Tourist Commercial (TC)

**East:** Tourist Commercial (TC) and Forest Reserve (FR)

**South:** Tourist Commercial (TC) and Resource Area (RA)

**West:** Parks and Recreation (PR) and Forest Reserve (FR)

## Background and Site Context

The subject property is located in Electoral Area 'G' on Highway 6, approximately 10 km south of the City of Nelson at the base of Whitewater Ski Hill Road. The property is presently used as a portion of and the main entrance (Apex Kiosk) to the Nelson Nordic Ski Club trails, however the location of the ±1 hectare portion of land that is subject to this bylaw amendment application is not currently used for any of the Nordic ski trails. See Figure 3 for the location and dimensions of the proposed residential lot.



Figure 1 - Location map of the subject property

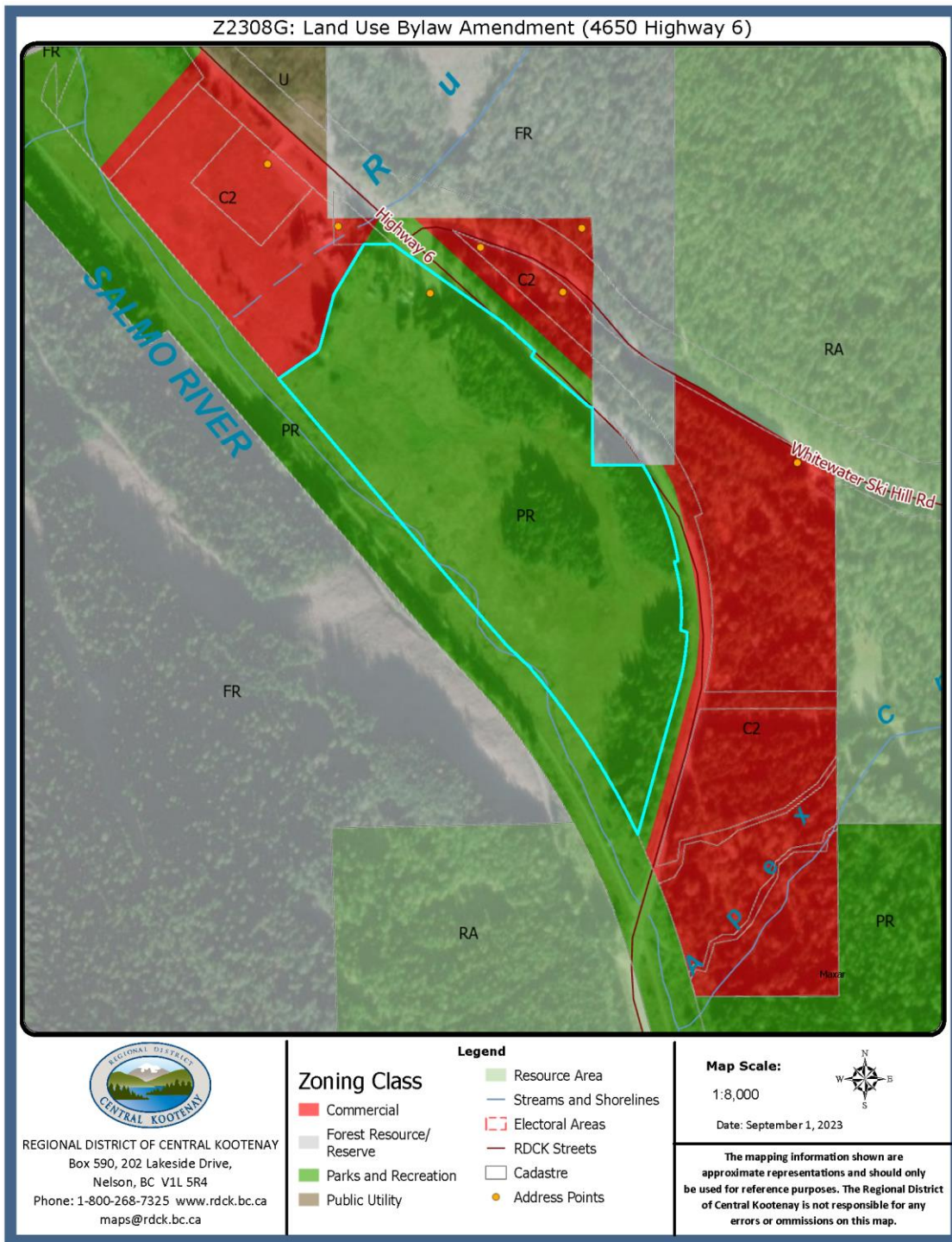


Figure 2 - Zoning map



Figure 3 - Site Plan showing the location of the proposed residential lot.



*Figure 4: The location of the proposed dwelling is marked with wooden stakes and has been outlined in red.*

## **Planning Policy**

### **Parks and Recreation Policies**

The Regional Board:

5. Supports the existing network of public outdoor recreation lots and trails, as well as the creation and extension of a connected network of trails and public corridors to access community parks, recreation areas, public open space and amenities where feasible and as indicated on Schedules A.1 and A.3.
6. Recognizes the importance and significance of the Great Northern Rail Trail at a community and regional level.
8. Supports continued dialogue and investigation of options toward dedicated non-motorized use on portions of the Great Northern Rail Trail in collaboration with all users.
10. Supports the establishment of public access points along the Salmo River for the purposes of swimming, fishing and other recreational pursuits.
13. Encourages investigation into options for the conservation and on-going access to recreational lands associated with rock climbing adjacent to Highway 6 in proximity to Hall Siding.

## SECTION 3: DETAILED ANALYSIS

### 3.1 Financial Considerations – Cost and Resource Allocations:

Included in Financial Plan:  Yes  No      Financial Plan Amendment:  Yes  No  
Debt Bylaw Required:  Yes  No      Public/Gov't Approvals Required:  Yes  No

Pursuant to Planning Fees and Procedures Bylaw No. 2457, 2015 the applicant has paid the Land Use Bylaw amendment fee of \$1600 in full.

### 3.2 Legislative Considerations (Applicable Policies and/or Bylaws):

The application was processed in accordance with Planning Fees and Procedures Bylaw No. 2457, 2015.

### 3.3 Environmental Considerations

None anticipated.

### 3.4 Social Considerations:

In accordance with Section 464 of the Local Government Act, a notice of public hearing was sent to six (6) surrounding property owners by mail and a notice of public hearing was advertised in two consecutive editions (April 29, 2024 and May 13, 2024) of the Nelson-Salmo Pennywise. No written submissions were received prior to the public hearing and no members of public attended the public hearing.

### 3.5 Economic Considerations:

None anticipated.

### 3.6 Communication Considerations:

The application was sent to 6 neighbouring property owners, relevant government agencies and First Nations.

The following responses were received from government agencies and First Nations:

#### **RDCK Building Services**

*No comments from building for this project at the subdivision phase.*

#### **RDCK Emergency Services – Emergency Program Coordinator**

*The RDCK Emergency Dept has reviewed the subject application and has no significant concerns with the proposal.*

*There are no records of previous incidents affecting the property, and the change will not significantly affect the population level.*

*Access/egress is good (highway 6)*

*Adding a new residence will not substantially increase existing hazards or create any unreasonable new hazards.*

*No objections from us.*

#### **Ktunaxa National Council – Guardianship Referrals Administrator – Lands & Resources**

*The Ktunaxa Nation Council has no concerns with this application.*

### **Penticton Indian Band – Referrals Coordinator**

*Penticton Indian Band has indicated that a Cultural Heritage Resource Assessment (CHRA) is required on the 1 hectare portion of the lot that is proposed to be rezoned.*

*Staff Note: A CHRA was completed by PIB staff on April 6, 2024 and the result of the assessment was that a pond/wetted area located within the southern extent of the property be avoided to preserve sensitive habitat. Further archaeological assessments or studies are not required.*

### **Ministry of Water, Land and Resource Stewardship – Ecosystems Section Head – Kootenay-Boundary Region**

*The Kootenay-Boundary Ecosystems Section of the Ministry of Water, Land and Resource Stewardship has received your referral request. We are currently unable to provide a detailed review of the referral but provide the following standard requirements, recommendations and/or comments:*

- 1. All activities are to follow and comply with all higher-level plans, planning initiatives, agreements, Memorandums of Understanding, etc. that local governments are parties to.*
- 2. Changes in and about a “stream” [as defined in the Water Sustainability Act (WSA)] must only be done under a license, use approval or change approval; or be in compliance with an order, or in accordance with Part 3 of the Water Sustainability Regulation. Authorized changes must also be compliant with the Kootenay-Boundary Terms and Conditions and Timing Windows documents. Applications to conduct works in and about streams can be submitted through FrontCounter BC.*
- 3. No “development” should occur within 15 m of the “stream boundary” of any “stream” [all as defined in the Riparian Areas Protection Regulation (RAPR)] in the absence of an acceptable assessment, completed by a Qualified Professional (QP), to determine if a reduced riparian setback would adversely affect the natural features, functions and conditions of the stream. Submit the QP assessment to the appropriate Ministry of Water, Land and Resource Stewardship office for potential review. Local governments listed in Section 2(1) of RAPR are required to ensure that all development is compliant with RAPR.*
- 4. The federal Species at Risk Act (SARA) protects Endangered, Extirpated or Threatened species listed under Schedule 1 of SARA. Developers are responsible to ensure that no species or ecosystems at risk (SEAR), or Critical Habitat for Federally listed species, are adversely affected by the proposed activities. The BC Species and Ecosystem Explorer website provides information on known SEAR occurrences within BC, although the absence of an observation record does not confirm that a species is not present. Detailed site-specific assessments and field surveys should be conducted by a QP according to Resource Inventory Standard Committee (RISC) standards to ensure all SEAR have been identified and that developments are consistent with any species or ecosystem specific Recovery Strategy or Management Plan documents, and to ensure proposed activities will not adversely affect SEAR or their Critical Habitat for Federally-listed Species at Risk (Posted).*
- 5. Development specific Best Management Practices (BMPs) should be applied to help meet necessary legislation, regulations, and policies. Current BC BMPs can be found at: Natural Resource Best Management Practices - Province of British Columbia (gov.bc.ca) and Develop with Care 2014 - Province of British Columbia.*
- 6. Vegetation clearing, if required, should adhere to the least risk timing windows for nesting birds (i.e., development activities should only occur during the least risk timing window). Nesting birds and some nests are protected by Section 34 of the provincial Wildlife Act and the federal Migratory Birds Convention Act. Guidelines to avoid harm to migratory birds can be found at: Guidelines to avoid harm to migratory birds - Canada.ca. If vegetation clearing is required during the bird nesting period (i.e., outside*

of the least risk timing window) a pre-clearing bird nest survey should be completed by a QP. The following least risk windows for birds are designed to avoid the bird nesting period:

<b>Bird Species</b>	<b>Least Risk Timing Windows</b>
Raptors (eagles, hawks, falcons, & owls)	Aug 15 – Jan 30
Herons	Aug 15 – Jan 30
Other Birds	Aug 1 – March 31

7. The introduction and spread of invasive species is a concern with all developments. The provincial Weed Control Act requires that an occupier must control noxious weeds growing or located on land and premises, and on any other property located on land and premises, occupied by that person. Information on invasive species can be found at: Invasive species - Province of British Columbia. The Invasive Species Council of BC provides BMPs that should be followed, along with factsheets, reports, field guides, and other useful references. For example, all equipment, including personal equipment such as footwear, should be inspected prior to arrival at the site and prior to each daily use and any vegetative materials removed and disposed of accordingly. If noxious weeds are established as a result of this project or approval, it is the tenure holder’s responsibility to manage the site to the extent that the invasive, or noxious plants are contained or removed.
8. Section 33.1 of the provincial Wildlife Act prohibits feeding or attracting dangerous wildlife. Measures should be employed to reduce dangerous human-wildlife conflicts. Any food, garbage or organic waste that could attract bears or other dangerous wildlife should be removed from the work area. If this is not feasible and waste is not removed, it should be stored in a bear-proof container to avoid drawing wildlife into the area and increasing the threat of human/wildlife conflict.
9. If this referral is in relation to a potential environmental violation it should be reported online at Report All Poachers & Polluters (RAPP) or by phone at 1-877-952-RAPP (7277).
10. Developments must be compliant with all other applicable statutes, bylaws, and regulations.

**Interior Health Authority – Team Leader, Health Community Development**

Thank you for the opportunity to comment. Interior Health interests are not affected by the proposed rezoning from Parks & Rec to Country Residential.

Please note, at the time of subdivision application, the Ministry of Transportation and Infrastructure usually sends us a referral for parcels less than 2 hectares. At that time a detailed technical review will be completed.

**Ministry of Transportation and Infrastructure – District Technician**

Ministry of Transportation has no objections to the rezoning of land.

An application for the residential access permit has been received by our agency and is currently under review along with the subdivision proposal.

**Electoral Area ‘G’ Advisory Planning and Heritage Commission**

These comments are from the approved minutes of the October 25, 2023 meeting:

That the Area G Advisory Planning Commission **SUPPORT** the Land Use Bylaw Amendment Application to rezone a portion of the property to Country residential (R2) for the property located at 4650 Highway 6, Hall Siding and legally described as LOT A DISTRICT LOT 1241 KOOTENAY DISTRICT PLAN 17958.



## **FortisBC – Property Services**

### **Land Rights Comments**

- Additional land rights may be requested stemming from servicing the proposed development/subdivision.
- FBC(E) requests [appropriate / updated] land rights to protect the existing infrastructure to ensure proper delivery and maintenance of the service. **The applicant should contact the undersigned at 250-469-7927 or [chelsea.stringer@fortisbc.com](mailto:chelsea.stringer@fortisbc.com) for further instruction regarding land rights and servicing requirements.**

### **Operational & Design Comments**

- There are FortisBC Inc. (Electric) (“FBC(E)”) primary distribution facilities along Highway 6.
- Given to the proximity of the overhead line on Highway 6 to the boundary of the lot, the applicant should pay particular attention to Electrical Code and WorksafeBC requirements in regards to placement of structures on the proposed lots if applicable. **Proposed developments that do not meet the WorksafeBC safe limits of approach requirements around electrical facilities may not be eligible for electrical services if they are deemed unsafe.**
- The applicant has not provided a landscape plan; however, they are reminded that vegetation beneath or near overhead electrical facilities must meet FBC(E) guidelines to avoid excessive brushing in the future.
- To date, arrangements have not been made to initiate the design process and complete the servicing requirements.
- All costs and land right requirements associated with changes to the existing servicing are the responsibility of the applicant.
- The applicant and/or property owner are responsible for maintaining safe limits of approach around all existing electrical facilities within and outside the property boundaries.
- For any changes to the existing service, the applicant must contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.
- **To proceed, the applicant should contact an FBC(E) designer as noted below for more details regarding design, servicing solutions, and land right requirements.**

***In order to initiate the design process, the customer must call 1-866-4FORTIS (1-866-436-7847). Please have the following information available in order for FBC(E) to set up the file when you call.***

- Electrician’s Name and Phone number
- [FortisBC Total Connected Load Form](#)
- Other technical information relative to electrical servicing

*For more information, please refer to FBC(E)’s overhead and underground design requirements:*

*FortisBC Overhead Design Requirements*

<http://fortisbc.com/ServiceMeterGuide>

*FortisBC Underground Design Specification*

<http://www.fortisbc.com/InstallGuide>

### **3.7 Staffing/Departmental Workplace Considerations:**

Not applicable.

### 3.8 Board Strategic Plan/Priorities Considerations:

Not applicable.

## SECTION 4: OPTIONS

### Planning Discussion

The proposal is to rezone an approximate 1 hectare portion of land in order to permit a single detached dwelling to be constructed. The ±1 ha portion of the subject property that is subject to this application would be rezoned from Parks and Recreation (PR) to Country Residential (R2) and the land use would be amended from Parks and Recreation (PR) to Country Residential (RC).

Third reading of the Amendment Bylaw was completed at the June 13<sup>th</sup> Board Meeting (Resolution 334/24) and since that time, the Ministry of Transportation and Infrastructure has approved and signed the Bylaw (see Attachment 'A'). Given that there are no other conditions or outstanding items that need to be resolved, staff are recommending that the Bylaw be adopted.

There is a concurrent subdivision application being reviewed by the Ministry of Transportation and the RDCK where the approximate 1 hectare portion of land being considered in this bylaw amendment application is proposed to be subdivided from the 14.4 hectare subject property so that the proposed Country Residential portion of the existing lot will be its own fee simple lot. There is also a related Development Variance Permit (DVP) application (V2311G) that is being considered by the RDCK that seeks to vary the requirements of Subdivision Bylaw No. 2159, 2011 for the remainder portion of the lot so that a water supply does not need to be provided on the part of the subject property that is to remain zoned and designated Parks and Recreation (PR). Staff anticipate this DVP application being brought to RAC and Board for consideration in August.

Staff recommend that *Amendment Bylaw No. 2935, 2023* be adopted for the following reasons:

- There has been no opposition received from surrounding landowners or the general public related to the proposed bylaw amendment application.
- The Nelson Nordic Ski Club, who operate Nordic Ski Trails on the subject property have indicated that they support the proposed bylaw amendment application.
- The proposal to rezone/re-designate a portion of the subject property adjacent to Highway 6 is consistent with a concurrent subdivision application and at this time no significant concerns have been noted by MoTI or the RDCK.
- The applicant is continuing to work with the RDCK to ensure that all requirements of Subdivision Bylaw No. 2159, 2011 are addressed, including the requirement for a DVP application in order to proceed with subdividing the property without providing a water supply (e.g. domestic well) on the remainder portion.

### Option 1

That *Land Use Amendment Bylaw No. 2935, 2023* being a bylaw to amend *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby ADOPTED;

AND FURTHER that the Chair and Corporate Officer be authorized to sign the same.

### Option 2

That further consideration of *Land Use Amendment Bylaw No. 2935, 2023* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* BE REFERRED to the September 12, 2024 Board meeting.

### Option 3

That no further action be taken with respect to *Land Use Amendment Bylaw No. 2935, 2023* being a bylaw to amend the *Electoral Area 'G' Land Use Bylaw No. 2452, 2018*.

## **SECTION 5: RECOMMENDATIONS**

That *Land Use Amendment Bylaw No. 2935, 2023* being a bylaw to amend *Electoral Area 'G' Land Use Bylaw No. 2452, 2018* is hereby ADOPTED; AND FURTHER, that the Chair and Corporate Officer be authorized to sign the same.

Respectfully submitted,  
Zachari Giacomazzo, Planner

## **CONCURRENCE**

Planning Manager – Nelson Wight  
Manager of Development and Community Sustainability – Sangita Sudan  
Chief Administrative Officer – Stuart Horn

### **ATTACHMENTS:**

**Attachment A – Amendment Bylaw No. 2935, 2023**

REGIONAL DISTRICT OF CENTRAL KOOTENAY

Bylaw No. 2935, 2023

A Bylaw to amend Electoral Area 'G' Land Use Bylaw No. 2452, 2018

WHEREAS it is deemed expedient to amend the Electoral Area 'G' Land Use Bylaw No. 2452, 2018, and amendments thereto.

NOW THEREFORE the Board of the Regional District of Central Kootenay, in open meeting assembled, HEREBY ENACTS as follows:

APPLICATION

- 1 That Schedule 'A.1' and 'B.1' of Electoral Area 'G' Land Use Bylaw No. 2452, 2018 be amended by changing the Land Use Designation from Parks and Recreation (PR) to Country Residential (RC) and the Zoning from Parks and Recreation (PR) to Country Residential (R2) for a portion of LOT A DISTRICT LOT 1241 KOOTENAY DISTRICT PLAN 17958 (PID: 011-707-721), as shown on Schedules 'A' and 'B' which are attached hereto and form part of this bylaw.
2 This Bylaw shall come into force and effect upon its adoption.

CITATION

- 3 This Bylaw may be cited as "Electoral Area 'G' Land Use Amendment Bylaw No. 2935, 2023."

READ A FIRST TIME this 14th day of December, 2023.

READ A SECOND TIME this 14th day of December, 2023.

WHEREAS A PUBLIC HEARING was held this 22nd day of May, 2024.

READ A THIRD TIME this 13th day of June, 2024.

APPROVED under Section 52 (3)(a) of the Transportation Act this 23rd day of July, 2024.

[Handwritten signature]

Approval Authority,
Ministry of Transportation and Infrastructure

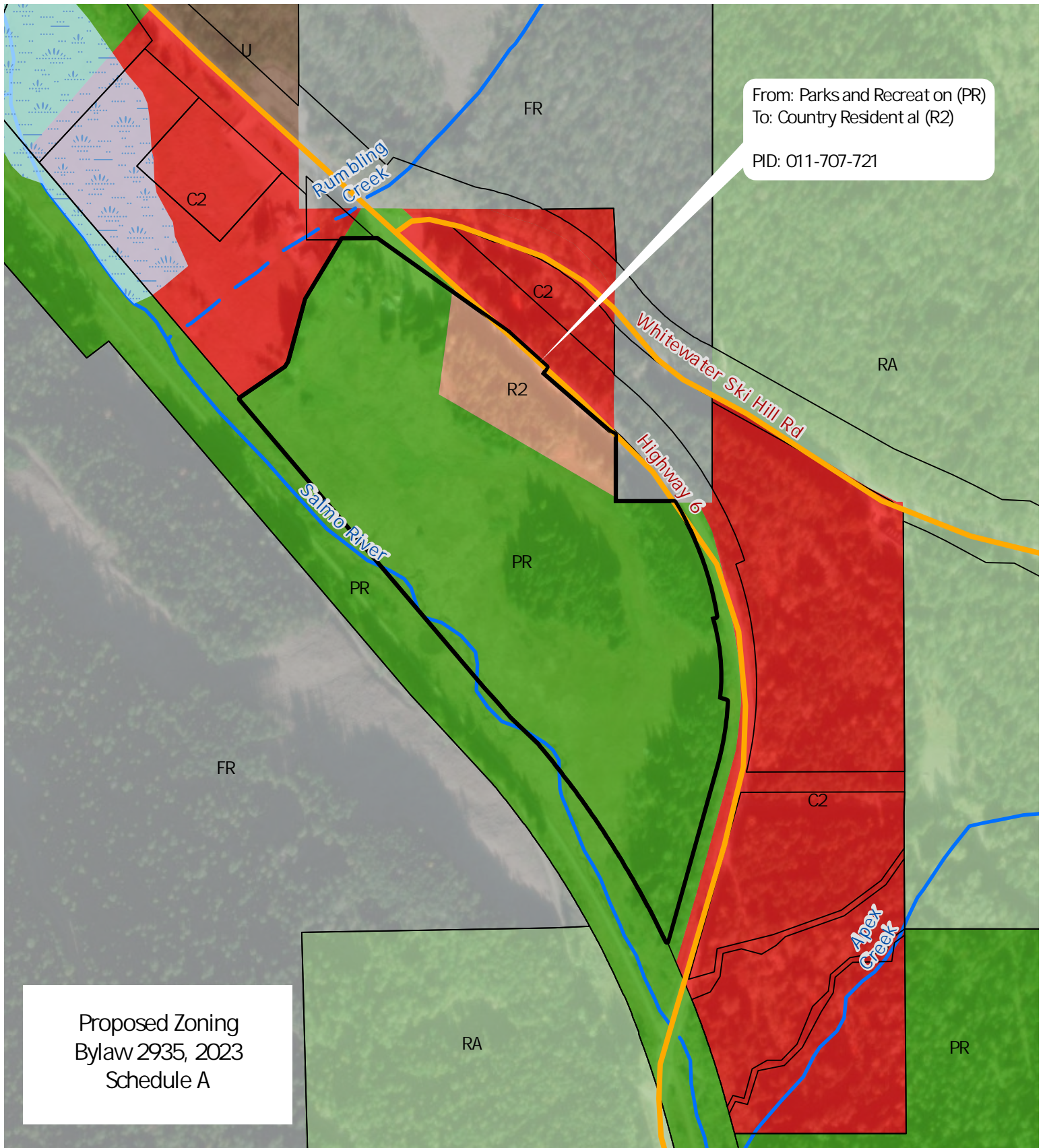
ADOPTED this XX day of XX, 202X.

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Aimee Watson, Board Chair

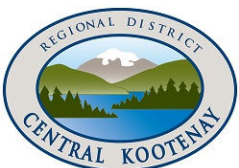
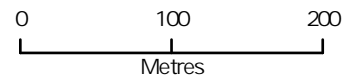
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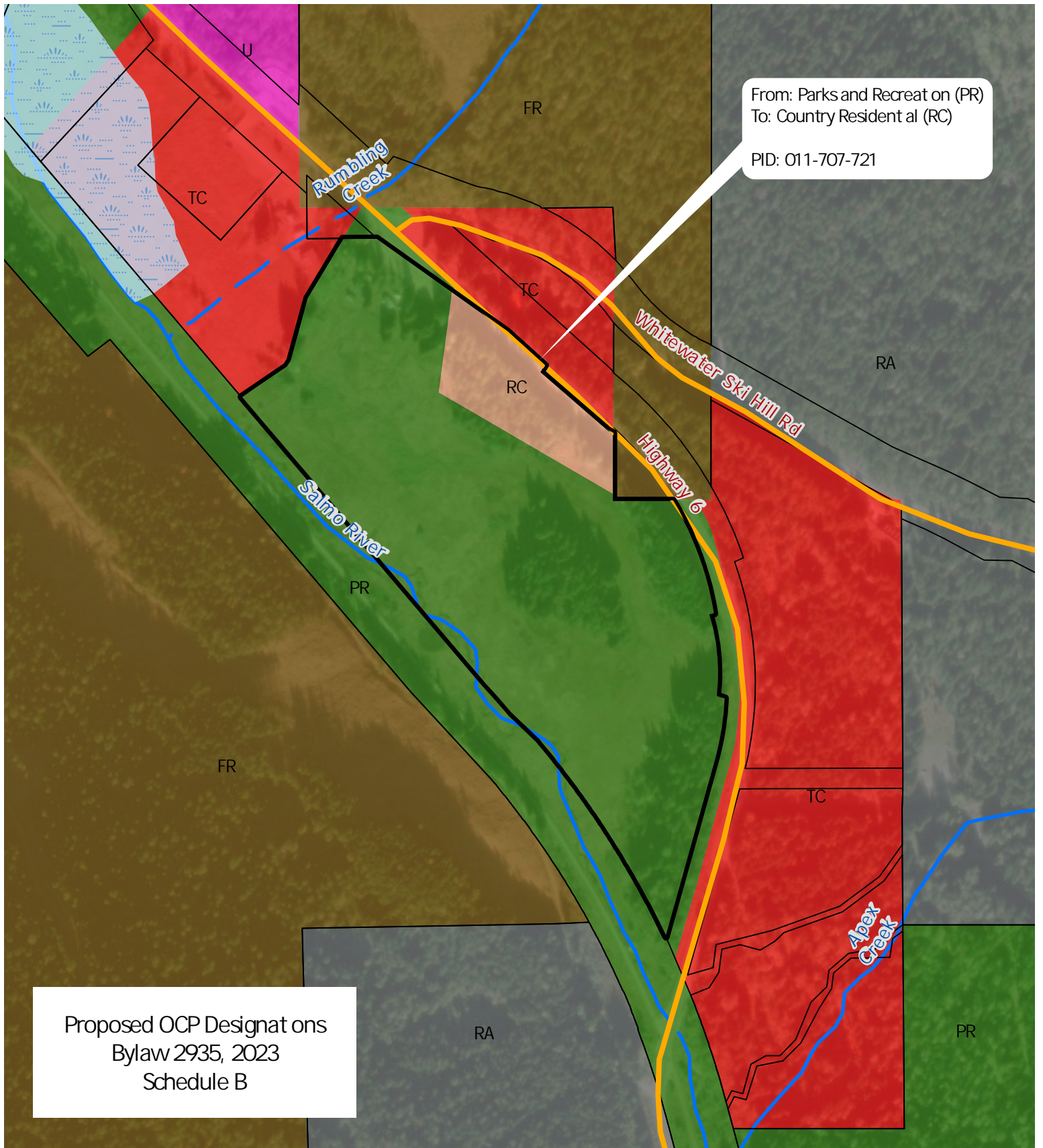
Mike Morrison, Corporate Officer



- Subject Property
- Lot Lines
- Road
- Stream
- Wetland
- Zoning Class**
- C2 - Tourist Commercial

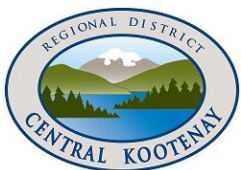
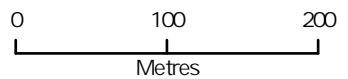
- FR - Forest Reserve
- PR - Park and Recreat on
- R2 - Country Resident al
- RA - Resource Area
- U - Public Ut lity





Proposed OCP Designations  
Bylaw 2935, 2023  
Schedule B

- Subject Property
- Lot Lines
- Road
- Stream
- Wetland
- PR - Parks and Recreation
- RA - Resource Area
- RC - Country Residential
- TC - Tourist Commercial
- U - Public Utility
- FR - Forest Reserve



Official Community Plan

Scale: 1:5,000  
Plot ed: Tuesday, November 28, 2023  
Datum/Project on: NAD83/UTM Zone 11N  
The map data shown are approximate representations for reference purposes only. The RDCK is not responsible for any errors or omissions on this map.